

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 125 OF 2006

IN

STAMP NUMBER MAIN NO. 287 OF 2006

SHRI SURESH PRABHAKAR PRABHU,
MUMBAI

....Applicant

Versus

SHRI CONSTANCIO MENEZES AND 7
ORS.,

....Respondents

Mr. A. F. Diniz, Advocate for the applicant.

None for respondent No.1 though served.

Coram:- P.V. KAKADE, J.

Date:- 17th August, 2006

P.C.

Heard Advocate for the applicant. None appears for the respondent No.1 though duly served. Advocate for the applicant seeks to delete the names of respondents No.2 to 8.

2. This is an application for condonation of delay of six years and twenty six days in filing the first appeal.

3. The Counsel for the applicant submits that respondent No.1 was residing in Mumbai which can be seen from the address in the Judgment of the lower Court itself; whereas the service was made through public notice under Order V, Rule 20 of the Code of Civil Procedure and the publication was in local newspaper, namely Gomantak Times which is published at Panaji and, therefore, he had no reason to have the notice of

the pending suit and came to know about the decree only when the execution notice was served upon him.

4. The contents of the application appears to be sufficient, especially when those are not controverted by respondent No.1 either by his appearance or by filing an affidavit-in-reply challenging the said contents. Therefore, even though the delay appears to be of considerable time, the ground is seen to be sufficient to condone the delay. Hence, the application is allowed in terms of para 11. The delay stands condoned. Application stands disposed of with no order as to costs.

P.V. KAKADE, J.

ssm.